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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/769,226	01/30/2004	Philip Frank Souter	CM2597	9632

27752 7590 12/08/2005

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CINCINNATI, OH 45224

EXAMINER

ANTHONY, JOSEPH DAVID

ART UNIT	PAPER NUMBER
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1714

DATE MAILED: 12/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.



FINAL REJECTION

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claim 29 is rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for a composition for purifying and clarifying contaminated drinking water that comprises: a primary coagulant material, a microbiocidal disinfectant, and an oxidant system for preventing or reducing manganese-associated post-flocculation discoloration, see page 3, lines 25-29 of the specification, does not reasonably provide enablement for a composition for purifying and clarifying contaminated drinking water that only comprises a water-soluble or water dispersible polymeric bridging flocculant as set forth in claim 29. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the invention commensurate in scope with these claims.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Art Unit: 1714

4. Claim 29 is rejected under 35 U.S.C. 102(b) as being anticipated by Souter et al. WO 02/00557 A2.

Souter et al teach compositions, methods and kits for purifying and clarifying contaminated drinking water. The taught disinfecting compositions comprise: 1) a primary coagulant, 2) a water-soluble or water-dispersible anionic and/or nonionic polymeric bridging flocculants, 3) a coagulant aid, 4) a microbiocidal disinfectant, such as calcium hypochlorite, 5) water soluble alkali, 6) a water-insoluble silicate selected from clays, zeolites and mixtures thereof, 7) a food additive or nutrient source, and optionally 8) a moisture sink, see abstract, page 4, lines 9-16, the examples and the claims, such as claim 1. Souter et al. thus directly disclose applicant's claimed component species in all aspects.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Souter et al. WO 02/00557 A2 or Souter et al. U.S. Patent Number 6,827,874, both said references optionally in view of Williamson Jr. U.S. Patent Number 3,325,014

Both Souter et al references teach compositions, methods and kits for purifying and clarifying contaminated drinking water. The taught disinfecting compositions comprise: 1) a primary coagulant, 2) a bridging flocculants, 3) a coagulant aid, 4) a microbiocidal disinfectant, such as calcium hypochlorite, 5) water soluble alkali, 6) a water-insoluble silicate selected from clays, zeolites and mixtures thereof, 7) a food additive or nutrient source, and optionally 8) a moisture sink, see abstract, page 11, line 20 to page 12, line 27, the examples and the claims, such as claim 1. Both Souter et al. references thus directly disclose applicant's claimed components and claimed component species in all aspects, with the one exception that Souter et al does not directly disclose the **functional presence** of applicant's component (iii) which is an oxidant system providing catalytic or autocatalytic oxidation of soluble Mn(II) to MnO<sub>2</sub>.

It is held by the examiner that applicant's invention is obvious over either Souter et al references alone, since Souter et al's discloses species of primary coagulants that are deemed to also function as catalyst for the oxidation of soluble Mn(II) to MnO<sub>2</sub>. Examples of such primary coagulants which have this dual functionality are manganese sulfate, manganese chloride, copper sulfate and copper chloride etc., see page 17, line 30 to page 19, line 14 of WO 02/00557 and column 11, line 50 to column 12 line 43 of 6,827,874. The oxidant used for these catalysts is deemed to be the microbiocidal chlorine-based disinfectant which is applicant's component (ii), see page 7, line 13 to page 8, line 2 of applicant's specification.

Williamson Jr. In the alternative It would thus have been obvious to one having ordinary skill in the art to use the disclosure of Williamson Jr. who clearly teaches that it is well known in the art of purifying water to use combinations of chlorine based disinfectant with potassium permanganate in a process of disinfecting and removal of removal of manganese by oxidation, see column 1, lines 7-42, column 3, lines 10-22, and column 5, lines 9-56 as strong motivation to actually incorporate potassium permanganate into the disinfecting compositions taught by both Souter et al. references as a means of removal of manganese by oxidation.

### ***Double Patenting***

7. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

8. Claims 1-12, 14-22 and 29 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-19 of U.S.

Patent No. 6,827,874. Although the conflicting claims are not identical, they are not

Art Unit: 1714

patentably distinct from each other because the patented claims encompass the pending claims, also see column 11, line 50 to column 12, line 43 of the patent.

### ***Priority***

9. Acknowledgment is made of applicant's claim for priority under 35 U.S.C. 119(a)-(d) based upon an application filed in GB on 08/01/2001. A claim for priority under 35 U.S.C. 119(a)-(d) cannot be based on said application, since the United States application was filed more than twelve months thereafter.

### ***Response to Arguments***

10. Applicant's arguments filed 09/06/2005 with the amendment have been fully considered but are not persuasive to put the application in condition for allowance for the reasons set forth above. Additional examiner comments are set forth next. In the "Remarks" section of applicant's amendment filed 09/06/2005 applicant asserts that: "The present application is a continuation of PCT Application US 02/23808, filed on July 26, 2002, which in turn, claims priority to priority application GB 0118749.1, filed on august 8, 2001". The problem with said assertion of applicant is that there is no evidence in the present application that such is true. A review of applicant's originally filed "Declaration for Utility or Design Patent Application (37 C.F.R. 1.63) combined with Power of Attorney" has **no claim** by applicant under Title 35 U.S.C 365( c) of any PCT International application designating the United States. Furthermore, Applicant did not check the continuation application box when applicant filed the originally "Utility Patent

Art Unit: 1714

Application Transmittal" sheet. Finally, applicant's specification as originally filed fails to disclose that the presently filed application is a continuation application of any other application. As such, although applicant has filed a certified copy of the GB foreign priority document, applicant's asserted priority to both the GB foreign priority document and domestic priority to PCT Application US 02/23808, filed on July 26, 2002, is not accepted.

Furthermore, applicant asserts that they filed 2 Terminal Disclaimers on 10/31/05. This assertion by applicant is not accepted because only the Terminal Disclaimer to pending reference application number 10/371,864 can be found anywhere in the file. Said T.D. has been approved. Applicant's thus still needs to file a Terminal Disclaimer over the applied U.S. Patent Number 6,827,878.

### ***Conclusion***

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

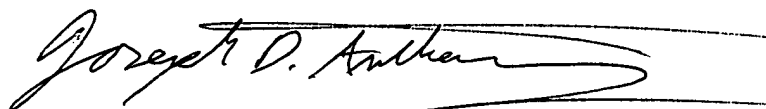


Art Unit: 1714

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

***Examiner Information***

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Joseph D. Anthony whose telephone number is (571) 272-1117. If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Vasu Jagannathan, can be reached on (571) 272-1119. The centralized FAX machine number is (703) 872-9306. All other papers received by FAX will be treated as Official communications and cannot be immediately handled by the Examiner.



**Joseph D. Anthony**  
**Primary Patent Examiner**  
Art Unit 1714

12/2/05